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17 **UNITED STATES DISTRICT COURT**

18 **EASTERN DISTRICT OF CALIFORNIA, SACRAMENTO DIVISION**

19 NEFTALI MONTERROSA, individually and
20 as co-successor-in-interest to Decedent SEAN
21 MONTERROSA; NORA MONTERROSA,
22 individually and as co-successor-in-interest to
23 Decedent SEAN MONTERROSA; MICHELLE MONTERROSA, individually;
24 ASHLEY MONTERROSA, individually,
25

26 Plaintiffs,

27 vs.

28 CITY OF VALLEJO, a municipal
29 corporation; JARRETT TONN, individually,
30 and, Vallejo police officers DOES 1-25,
31 inclusive,

32 Defendants.

33 **Case No: 2:20-cv-01563-DAD-SCR**

34 **MOTION TO REOPEN DISCOVERY
35 AND AMEND THE SCHEDULING
36 ORDER**

37 **DATE:** September 15, 2025

38 **TIME:** 1:30 p.m.

39 **CTRM:** 4

1 Pursuant to Federal Rule of Civil Procedure 16(b), hereby moves to amend the scheduling
2 order to reopen discovery for the purpose of discovery and depositions related to Defendant the
3 City of Vallejo's practice of maintaining a separate cabinet of investigations and materials that
4 are not produced in court proceedings, as well as for discovery and depositions related to any
5 such materials related to Defendant Jarrett Tonn.

6

7 **FACTUAL AND PROCEDURAL BACKGROUND**

8 Unarmed Sean Monterrosa was shot in the back of the head by Vallejo police officer
9 Jarrett Tonn as he ran away. There was no warning, no investigation, Tonn did not even take the
10 time to discern whether Monterrosa was armed.

11 Tonn was riding in the backseat of an unmarked Vallejo PD truck as the vehicle
12 approached a Walgreens pharmacy that was reportedly being looted. As the vehicle pulled into
13 the parking lot, Tonn fired his silenced military style assault rifle from the back seat of the
14 vehicle, between the officers in the front seat, through the windshield of his moving vehicle,
15 striking Sean in the back of the head and killing him as he ran away. Monterrosa was unarmed
16 and fleeing at the time he was killed.

17 Discovery in this matter is closed and dispositive motions have been fully briefed.
18 Nonetheless, new evidence has come to light which necessitates the reopening of discovery for
19 limited purposes. Previously conducted discovery revealed a municipality that had largely
20 absconded its oversight and discipline obligations relating to officers. As laid out at length in
21 Plaintiffs' response in opposition to the motion for summary judgment, the Vallejo police
22 department had a history of ignoring misconduct and stomping out efforts at accountability.
23 While large portions of discovery were dedicated to the department's oversight of officers –
24 including Defendant Tonn – recently publicized deposition transcripts reveal that the full picture
25 of Vallejo's misconduct may have been obscured in the discovery process in this case, as well as
26 countless others.

27 On July 24, 2025, the ACLU of Northern California issued a letter to Vallejo City Council
28 requesting an independent investigation into the City Attorney's Office. (See Ex. A.) Among

1 other allegations, the letter cited to deposition testimony of John Whitney in two matters which
 2 indicate that the Vallejo Police Department maintained a second cabinet that it referred to as
 3 informal resolutions. (See Ex. B: *Jenkins v. City of Vallejo, et al.*, Case No. 2:19-cv-01896
 4 (TLN-SCR) (E.D. Cal.), Dep. Testimony of Whitney at 32:8-10, 33:23-34:16, 35:9-22.) This
 5 second cabinet was kept separate from the *Pitchess* files that were turned over to civil litigants
 6 and criminal defendants who were entitled to them.

7 Undersigned counsel first became aware of the ACLU letter on July 31, 2025 and began
 8 investigating the allegations contained therein. Counsel then conferred with clients and now files
 9 the instant Motion to Amend the Scheduling Order and Reopen Discovery. Plaintiffs seek to
 10 reopen discovery for the limited purpose of discovery regarding allegations that the Vallejo PD
 11 intentionally withheld evidence of misconduct by officers from the civil and criminal judicial
 12 processes and to determine whether these materials contain any allegations of misconduct against
 13 Defendant Tonn.

14 **ARGUMENT**

15 Under Federal Rule of Civil Procedure 16(b)(4), “a scheduling order may be modified
 16 only for good cause and with the judge’s consent.” The good cause standard “primarily
 17 considers the diligence of the party seeking the amendment. *Coleman v. Quaker Oats Co.*, 232
 18 F.3d 1271, 1294 (9th Cir. 2000); *see also, Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604,
 19 609 (9th Cir. 1992) (“Although the existence or degree of prejudice to the party opposing the
 20 modification might supply additional reasons to deny a motion, the focus of the inquiry is upon
 21 the moving party’s reasons for seeking modification... If that party was not diligent, the inquiry
 22 should end.”). In the instant matter, Plaintiffs were diligent in conducting discovery and the basis
 23 for reopening discovery arises from under oath testimony that Vallejo had intentionally cabined
 24 off certain documents from discovery, both in this matter and as a matter of process in all
 25 litigation.

26 Here, Plaintiffs were diligent in conducting discovery. They exchanged document
 27 requests and conducted 17 depositions including three corporate designee depositions. Included
 28 in the topics for the corporate designee was testimony related to complaints of excessive force or

1 dishonesty for Detective Tonn. (See Ex. C: Dep. Trans. of Knight at 12:8- 19:15.) Corporate
2 Designee Knight explained that all complaints of excessive force or dishonesty were logged in
3 IAPro and were maintained in a *Pitchess* log. (*Id.*) A request was made for that log based on the
4 representation that all incidents, investigations, and citizen's complaints were maintained in the
5 log. (*Id.*) However, in the *Jenkins* matter the testimony of John Whitney on May 13, 2025 – long
6 after the close of discovery in this case - exposed that this representation was inaccurate.

7 Whitney testified he "learned of a filing cabinet that they referred to as informal
8 resolutions and they weren't being included in the internal affairs folder." (Ex. B at 32:8-10.)
9 Testimony further revealed that materials kept in this separate filing cabinet were not being
10 disclosed in civil matters and were kept separate from the *Pitchess* files:

11 Q. When you had mentioned the filing cabinet, the *Pitchess* cabinet, it's my
12 understanding – let me know if this is also your understanding – Captain Jason
13 Potts and maybe others had a separate distinct cabinet referred to as the *Pitchess*
14 cabinet whereas there was a whole other system of claims and complaints and
formal complaints and things that were never making it to court, that were never
being turned over to civil plaintiffs and things like that. It's my understanding it
went on like that for quite some time. Is that what you're talking about?

15 A. Yes... Jason Potts, when he was a sergeant in internal affairs, actually showed
16 me the cabinet where they kept everything, and it was separate from the cabinet
17 that sat across from the admin and analyst Joni Brown, who worked in internal
affairs at the time. Two separate cabinets."

18 (*Id.* At 33:23-34:16.) Here, Plaintiffs have demonstrated that good cause exists for discovery to
19 be reopened to ascertain whether Vallejo was intentionally covering up misconduct by officers
20 by not producing complaints and other misconduct related materials, as well as whether any
21 materials in this "separate cabinet" related to Defendant Tonn.

22 CONCLUSION

23 Wherefore, for the reasons stated herein, Plaintiffs respectfully request that the
24 Scheduling Order be amended and discovery reopened for the purpose of determining the extent
25 of Vallejo's failure to produce relevant materials in criminal and civil actions, as well as whether
26 all materials related to Defendant Tonn have been produced and to allow Plaintiffs to fully
27 explore any relevant information that comes from this additional discovery. Plaintiffs request the
28 proposed order submitted herewith be adopted by the Court.

1 Respectfully submitted,

2 /s/ John J. Coyle

3 John J. Coyle, Esq.

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6 Date: August 20, 2025

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1 **CERTIFICATE OF SERVICE**

2 I certify that the foregoing Motion to Reopen Discovery and Amend the Scheduling Order was
3 filed via the Court's electronic filing system and thereby served upon all parties of record.

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5 /s/ John J. Coyle

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